

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

October 25, 2006

- I.
PLEDGE OF
ALLEGIANCE**
- Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.
- II.
ROLL CALL**
- Present: Ali-Santosa, Azevedo, Galang, Mandal, and Williams
Absent: Ciardella and Tabladillo
Staff: Bejines, Hom, Pio Roda and Williams
- III.
PUBLIC FORUM**
- Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.
- There were no speakers from the audience.
- IV.
APPROVAL OF MINUTES
October 11, 2006**
- Chair Williams called for approval of the minutes of the Planning Commission meeting of October 11, 2006.
- Staff had no changes.
- Motion** to approve the minutes of October 11, 2006.
- M/S: Mandal/Ali-Santosa
- AYES: 4
- NOES: 0
- ABSTENTION: 1 (Azevedo)
- V.
ANNOUNCEMENTS**
- Staff had no announcements.
- Commissioner Ali-Santosa announced that he would not attend the first Commission meeting in November. Chair Williams clarified there is only one meeting in November and December.
- VI.
CONFLICT
OF INTEREST**
- Assistant City Attorney Pio Roda asked if the Commission has any personal or financial conflict of interest on tonight's agenda.
- There were no Commissioners that identified a conflict of interest.
- VII.
APPROVAL OF
AGENDA**
- Chair Williams called for approval of the agenda.
- Staff has no changes to the agenda.
- Motion** to approve the agenda.
- M/S: Galang/Azevedo
- AYES: 5
- NOES: 0

**VIII.
CONSENT CALENDAR
None**

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

Staff had no changes to the consent calendar.

**IX.
PUBLIC HEARING
1. USE PERMIT
AMENDMENT NO.
UA2006-2 (Continued from
September 27, 2006):**

Cindy Hom, Project Planner, presented Use Permit Amendment No. UA2006-2, a request for approval to add sales of all types of alcohol in conjunction with an existing convenience store located at 1491 South Main Street and recommended denial based on the finding noted in the staff report.

Commissioner Azevedo asked if a member of the Police Department is here tonight and Ms. Hom said yes.

Chair Williams asked if Section 57 that pertains to single-family residence being detrimental would apply to high density, mixed use project. Tom Williams, Planning and Neighborhood Services Director, said that Section 57 is applicable, however in terms of land use, staff will look at each application on a case-by-case basis.

Commissioner Mandal asked staff to clarify the memo that was handed out prior to tonight's meeting. Ms. Hom said that the first attachment is an e-mail from the applicant noting that he originally offered 100k to the HOA, but is now rescinding his offer to 50k to repair the common wall. The other attachments are e-mails regarding public comments that are in favor of the application. Mr. Williams added that right before the meeting, staff received the attachments and the memorandum.

Commissioner Azevedo asked how does the police report data compare with other convenient stores in the community. Steve Pangelinan, Field Services Division Commander for the Police department, said that he looked at some numbers with respect to the Dixon Mart and Liquors on Dixon Road comparing its similarity to its proximity to the residential community but there were 74 events related to that store within the same relative timeframe, 2001 to 2006.

Commissioner Azevedo asked if there was a possibility that once this store becomes a liquor store, will there be more police calls and Officer Pangelinan said it that could be a possibility.

Commissioner Mandal asked Officer Pangelinan if he could explain the data that was passed out to the Commission prior to the meeting. Officer Pangelinan said that the crime analyst ran a data report that showed there were 64 events that occurred near Jerry's market, and with those 64 events, it was determined that 45 events occurred at Jerry's market or closely in front of Jerry's market.

Vice Chair Galang said with regards to the police calls in 2001, do most of the calls come from Pines residents? Officer Pangelinan said that most calls are from the business owner himself, some are from the residents, and some are called in anonymously or from someone passing by.

Vice Chair Galang asked what does fraudulent transaction activities mean? Officer Pangelinan said that it could be somebody attempting to pass a bad check or someone attempting to use a stolen or fictitious credit card.

Vice Chair Galang asked if most of these calls come from Jerry's and Officer Pangelinan said yes.

Commissioner Mandal asked if fraudulent checks are a common thing that happens with other businesses and Officer Pangelinan said yes.

Chair Williams introduced the applicant.

Aslam Ali, Owner of Jerry's Market, 1491 S. Main Street, stated that his family bought the store about five years ago and they take their operation very seriously. His family has been in the business for over 25 years and have never sold liquor to underage minors. The market is well kept and very clean, and they try to serve the community as best as possible. He noted that he received over 500 petitions from his customers in support of his liquor license. Right now, his customers have to drive to San Jose, or Milpitas Liquor to get alcohol and there is no other store within walking distance near the Pines. He explained that a liquor store is needed in the area to serve the future residents that are coming right across the street from Jerry's. He also explained that Jerry's has equipment to see if a customer has a real or fake drivers license. He also pointed out that he has tried to bend over backwards in working with the neighborhood and they do not want to work with him.

Commissioner Azevedo said he read somewhere that the Mr. Ali had other liquor licenses at previous stores and sold to minors. Mr. Ali said that he has operated 80 to 90 stores and has had to rely on the employees, but in the past, his employees sold to minors about five to seven times. Now, though, he has a strict policy and sends employees to training and if they get caught selling to minors, they are terminated.

Commissioner Azevedo asked if Mr. Ali's machine takes into consideration a false ID and Mr. Ali said yes.

Commissioner Azevedo asked what guarantees does Mr. Ali have that he will get rid of the graffiti and the litter in the neighborhood. Mr. Ali said that Jerry's will do their best to have the area around Jerry's clean and they have done a much better job than the previous owner.

Commissioner Mandal said that it seems like Mr. Ali is really trying to work with the neighborhood and asked him if he is flexible enough to work with the HOA to come up with a solution that everyone is comfortable with.

Mr. Ali said that he has tried to bend over backwards for the HOA such as offering to put a net on a fence to prevent litter being thrown away or repairing a wall behind his store or adding lights near a dark alley and also offering to close at 11 a.m. instead of 2 a.m. He said he has offered many things but the HOA is not interested.

Commissioner Ali-Santosa said he attended an HOA meeting and met with Mr. Ali himself. He asked if his equipment is able to check on out of town passports. Mr. Ali said that 98% of his customers have California ID however the machine covers every state in the US.

Vice Chair Galang asked if Mr. Ali is aware of the number of police calls since 2001. Mr. Ali said in the last 5 ½ years, not one police officer has ever called him to complain about Jerry's. He didn't know that an incident report even existed until he saw the staff report. He noted that about a year ago, police officers paid him a visit and asked to see one of his videotapes because a neighbor was burglarized. He also pointed out that his store has fourteen cameras inside and outside of the store.

Vice Chair Galang asked Mr. Ali how many employees he has and he said four not including him and his wife.

Vice Chair Galang asked Mr. Ali if he works everyday and Mr. Ali said yes.

Vice Chair Galang asked if residents feel comfortable talking to him. Mr. Ali said he encourages residents to talk to him. He said six months ago, he contacted the HOA to have one of his employees clean up the park and pick up litter every single day once a day, however he needed their permission for that. He said he never got permission from them. When he bought the store, there were a lot of problems. He immediately installed two cameras in front of his store and stopped selling certain brands of cheap wine because it would not benefit his store or the neighborhood.

Commissioner Azevedo said he had been in the grocery business for 42 years and had a convenience store for 22 years so he can relate to Mr. Ali. He suggested that Mr. Ali wait for a while to try to work with the neighborhood and then come back in the future to apply for a liquor license. Mr. Ali said that the HOA is not interested and will say no. He has talked to them a number of times and the answer is always no.

Chair Williams opened the public hearing and noted those who wish to speak have a three-minute restriction imposed.

Commissioner Ali-Santosa asked that all speakers state their name, address, and proximity to the store.

Rob Means, 1421 Yellowstone, lives three miles away, stated that Mr. Ali is doing a good job with his business and the Commission should support him, if not, another store will pop up in town and will sell liquor. He felt that Mr. Ali is a very good man because he contributes to Little Leagues and the community and also pointed out that Mr. Ali is willing to give the HOA 50k and that should be enough to clean up the park and litter. He also suggested that the HOA install sprinklers so that the owners can turn them on at will and deter people from loitering. He is in favor of the project.

Rick Warren, Berkeley, Attorney for Mr. Ali, clarified that the reason the last meeting was continued was because they asked staff to go back to the police department to get more information about the police calls to see if there was a correlation of services attributed to Jerry's market. He said they were not permitted to see the original reports itself, so they trusted the police to see if there was any indication in those 45 calls, whether an employee or customer of Jerry's was involved in the police information. Of the 45 calls, 19 originated from employees calling because of fraudulent activity or they witnessed something happen to a member of the public. He is in favor of the project.

Tammy, 1731 Starlite in the Pines, said she is shocked to hear there is litter in the neighborhood because Jerry's is a very clean store. She said that if the Commission says no to Jerry's, they are saying no to the community. She pointed out that Mr. Ali had a donation box set up for someone that was hit by a driver. She is in favor of the project.

Ramona Bennet, 2151 Old Oakland Road, Space 603, lives about a mile from Jerry's, said that Mr. Ali takes his business very seriously and is vigilant about checking for underage drinkers. He is also very security conscious and is known as a responsible businessman. She is in favor of the project.

James Meyers, 73 Lonetree Court, lives about 100 feet from Jerry's, is opposed to the liquor license. He has nothing personal against Mr. Ali but is concerned about bringing liquor to the neighborhood because of his concern for the children. He is not in favor of the project.

Debbie Lynch, 1799 Starlight Drive, lives about three blocks from Jerry's, said that she felt that Jerry's should have his liquor license because of convenience. The store is very clean and she doesn't think it would make a big difference if he sold alcohol. She is in favor of the project.

Dennis Smith, Senior Business Consultant and Milpitas Rotary member, 500 Glenmore Circle, lives about two miles from Jerry's, stated that as a fellow member, Mr. Ali can be counted on for accountability. If he says he is going to do something he will do it. He said that Mr. Ali should be granted a liquor license. He said he was appalled to hear that Elmwood's proximity to Jerry's would be a problem and felt that should be taken up with the County, not Mr. Ali. He is in favor of the project.

Willie Miller, 156 Lonetree Court, lives in the second block behind Jerry's Market, said he goes to the park every day and does not see a lot of litter there but the park is on the other end away from the store, but when goes to Jerry's, it is very clean and he doesn't think that Jerry's should be held accountable for the graffiti because they are not selling spray paint. He is in favor of the project.

Ms. McClay, School Teacher, 1848 Camphor Court, lives a few blocks from Jerry's, and opposes the liquor license, said Mr. Ali is a good guy but she doesn't want liquor near her neighborhood. She said that a lot of people that spoke in favor of liquor don't live near the neighborhood. When inmates are released from Elmwood, they go directly to Jerry's and the children bused out of the school pass right near Jerry's. She supports small businesses but not hard liquor. She is not in favor of the project.

Bobby Miller, 156 Lonetree Court, lives 2 blocks behind the store, stated that she walks a lot in the neighborhood with her grandchildren and hasn't seen any troublemakers. She said Mr. Ali doesn't let people loiter outside his store and he has a very clean store and he always checks ID and is a very responsible man. The Palms restaurant has already had a killing across the street and she doesn't think the liquor will make a big difference. She is in favor of the project.

Mike Ali, 2012 Oaks Drive, Pleasanton, said that he likes Jerry's and how Mr. Ali treats customers. He said the City should let him have a temporary license for six months on a trial basis and if it doesn't work out, the City could revoke it. He is in favor of the project.

Margie Stevens, 1683 Rocky Mountain, Milpitas, doesn't live in the Pines, said the store is shiny bright and she has never seen a cleaner convenient store and never sees litter or graffiti when she walks around the store. She said if the store itself made calls to the police department it would be a good thing because it means they are paying attention to their customers. She said that Jerry's doesn't sell to minors and she is in favor of the project.

Carmella Tomasini, 86 Woodland Court, said this issue has come up many times before on several occasions. She is not opposed to the market, but selling hard liquor is out of the question because Zanker elementary is nearby. She said that Milpitas has so many stores that sell alcohol at decent hours and felt there are other more important issues to address at the City. She is not in favor of the project.

Steven Thomas, 2151 Old Oakland Road, #532, San Jose, lives 1 mile from Jerry's, said ever since Mr. Ali took over the store, he has seen a big improvement. He felt that if there are problems with the Pines, he doesn't think Jerry's should be held responsible. He is in favor of the project.

Richard Langhose, 1580 Fallen Leaf Drive, lives 200 feet from Jerry's, said he doesn't have a problem with Jerry's. Mr. Ali has a very clean store and is a very polite and good man. The issue is with the community and the children that have to be bused by public transportation that pass through there. He said the neighborhood doesn't need liquor there. When Elmwood detainees are released, they are given money and walk to the bus stop in front of Jerry's. He is not in favor of the project.

Janet Wilson, 83 Cedar Way, 6 houses off of Main street, around the corner from Jerry's, said she has the brunt of the traffic and foot traffic in the neighborhood. She does support Jerry's getting the liquor license. She said there is an establishment across from Jerry's that serves liquor and Elmwood has always existed there. She felt that the comparisons of the Pines neighborhood to Dixon Landing liquors was not appropriate because she believes most stores in Milpitas do sell liquor adjacent to residential areas and schools. She appeals to her fellow Pines HOA to support the project because Mr. Ali has offered too much to make them feel comfortable. She also felt the residents should discipline their children not to litter. She is in favor of the project.

Kerry Jergens, 1707 Starlight Drive, 4 blocks from Jerry's, said the Pines has always had graffiti and glass problems but it is up to the neighborhood to take care of that. She doesn't see how it ties into Jerry's liquor license. She said if a kid wants liquor he can get it anywhere he wants. She said Jerry's is a lot cleaner than other stores and she gets carded all the time and feels safe there. She also pointed out that there was a domestic issue in the Pines and it took the police ten minutes to show up. She also said it is up to the community to handle the issues as far as keeping the neighborhood safe. She is in favor of the project.

Michael Gellum, Manager at the trailer across the street, 1504 S. Main Street, said that detainees are released from Elmwood at 2 a.m. and as far as graffiti is concerned he doesn't see it anymore. He said Mr. Ali is a good man and takes care of his store. He is in favor of the project.

John Shields, 45 Lonetree Court, 3 houses down from Jerry's, said that Mr. Ali is doing a good job with Jerry's, however people leave their beer cans in the streets. He doesn't think liquor will benefit the community, and as far as safety goes, he has seen broken bottles there and other disgusting things. He is not in favor of the project.

Loretta James, 1389 Fallen Leaf Drive, lives four blocks from Jerry's, said he is store is very immaculate and felt that teenagers will be able to buy liquor where they want and felt that Mr. Ali should be given a temporary license. She is in favor of the project.

Mrs. Fe Aurelia V. Doyle, 80 Lonetree Court, lives 80 feet from Jerry's, wants to know what the police recommendation. She pointed out that most of Jerry's supporters don't live there. She said she has been accosted from people in the neighborhood and that Mr. Ali's character is not in question but the selling of hard liquor is. She is not in favor of the project.

Kathy Lee, 2022 Yosemite Drive, 3 miles from Jerry's, said her relatives live behind Jerry's and she came to support him. She thinks Jerry's should get his liquor license because he manages a very good clean store and has good customer service. She felt that if he has a license, the store cannot cause any more problems because if the kids want liquor, they can go to any store. She is in favor of the project.

Rosemary Fowler, 86 Lonetree Court, said she does not want liquor in her yard and felt that bottles and being drunk do not mix with children. She is not in favor of the project.

Eli, 1825 Forest court, lives five blocks away from Jerry's, said that he is out early in the morning and never sees problem in front of the bus stop at Jerry's. He said that he is unsure of where he stands on this project and it is not Mr. Ali's character that should be questioned but the character of those who buy from him that should cause concern.

Denise Perry, 45 Lonetree Court, lives 5 houses from Jerry's, said that the Police initiated a DARE program in school and there are sex offenders in the Pines. She felt that when you start mixing alcohol and sex offenders it doesn't work. She is not in favor of the project.

Karen Vialma, 2151 Old Oakland Road, lives about a mile from Jerry's, felt that the neighborhood should be responsible for cleaning up litter and graffiti and not Jerry's. She is in favor of the project.

Adrian Tidwell, 343 Manzanita Court, lives ½ mile from Jerry's, said it is ridiculous that Jerry's is being considered a threat to the Pines and felt it is the responsibility of the residents to keep the neighborhood clean. She said she was one of the first volunteers to help paint away graffiti and even won an award and no one in the Pines offered to help. She said no one from the neighborhood is helping keep the place from turning into a slum and people are loitering in the park every Friday night. She is in favor of the project.

Mike Novotny, 36 Greentree Way, lives right behind Jerry's and is against the liquor license.

Don, lives off of Landess, 2 miles from Jerry's, says Mr. Ali is a model for all small business owners to follow in Milpitas and always takes the effort to make the best of his store and the vicinity. He is in favor of the project.

Russ Bargstadt, 1307 Stardust Way, President of the HOA, said this is the third time since he has been in the Pines that they have had to battle a liquor license. Mr. Ali did contact the HOA about picking up litter behind the store and the HOA contacted him back but said that he needed to provide liability insurance because the HOA didn't want to be sued. When people speak in favor, it is about what a nice guy Mr. Ali is but it is the impact on the neighborhood where the problem exists. How does the sale of liquor improve the neighborhood? He felt that Mr. Ali's beer and wine license should be revoked too.

Commissioner Azevedo asked if the board voted not to give Mr. Ali his permit. Mr. Bargstadt said they did a poll and the board was against it.

Commissioner Azevedo asked how did the homeowners vote. Mr. Bargstadt said that the 90% of the attendees were against the sale of liquor.

Commissioner Azevedo asked if he polled the homeowners themselves. Mr. Bargstadt said that they did not do a track wide vote.

Commissioner Azevedo asked if it is under the Commission's authority to pull a use permit.

Mr. Williams said they would have to take it separate from the application and would have to look at the degree of violations and get the ABC involved. Based on all of the research staff has done for this application, he would recommend that there are not sufficient findings.

Matt Garvey, 96 August Court, 1.8 miles from the store, has worked across the street from Jerry's for nineteen years and has never seen the store as clean as it is now. He felt that Mr. Ali should get his liquor license and he is in favor of the project.

Guy Haas, 1277 Fallen Leaf, Treasurer of the HOA, two blocks from Jerry's, said there is a liquor store near Dixon and he noticed they had a parking lot with a fence that they shared with residents and now it is completely blocked off. The HOA itself tries to get rid of graffiti. He said his wife worked at Elmwood and she says they release people at all times of the day, not just 2 a.m. He is not in favor of the project.

Larry Laverdo, 1658 Fallen Leaf drive, stated that Jerry's is a convenience store and he should be able to sell liquor. He is in favor of the project.

Will Kong, 1696 Fallen Leaf Drive, lives a block from Jerry's, is against Mr. Ali selling liquor because it is right near an elementary school and a residential neighborhood. He is not in favor of the project.

Irene Johnson, 56 Lonetree Court, lives in back of Jerry's, felt that Mr. Ali has been doing a great job however the problem is the liquor. She is not in favor of the project.

Araceli Tapia, 1736 Starlight Drive, is very upset about being here tonight and said that Mr. Ali approached her to sign a petition for a deli, not hard liquor. She even called the Principal of Zanker elementary school to inform her about the petition. She said that Mr. Ali's customers tried to intimidate the board and one of the ladies was so afraid she was going to move out of town. She is very disappointed in the process and would like someone to listen. She is not in favor of the project.

Philip Tuitt, 1756 Pinewood Court, two blocks away from Jerry's, is opposed to hard liquor because he felt that it doesn't improve public safety and is concerned the upgrade of the liquor license will not improve the neighborhood. He is against the project.

Julie Goldberg, 251 West Capitol, five blocks from Jerry's, felt that neighborhood doesn't need liquor because of safety issues. She is against the project.

Mrs. Jose, Director of the Pines HOA, 1863 Starlight Drive, 3 blocks from Jerry's representing the homeowners, said at the last two meetings, 100 people attended and everyone who spoke, spoke against having the hard liquor license being accepted. Tonight, there were 16 residents from the Pines against it and only ten from the Pines who were for it and the rest do not even live in the Pines. She is not in favor of the project. She asked if the Commission would want this in their backyard.

Commissioner Azevedo asked how many homes is part of the HOA, and Mrs. Jose said 862 homes.

Dennis Graham, Fallen Leaf Drive, lives 1 block from Jerry's, said at the HOA meeting, there were 9 people who voted for it, and of those nine, only four lived near Jerry's. 18 people in the Pines voted against it, and of those, 14 people voted for it and they lived a mile away. He said Mr. Ali just started cleaning up his store recently. He said 95% of the Homeowners are against the project. He is not in favor of the project.

Lad Uni, 1825 Forest Court, lives four blocks from Jerry's, said in the past he has voted against the license, however tonight, he felt that Mr. Ali should be given a provisional liquor license. He is in favor of the project.

George Bessler, 2151 Old Oakland Road, lives 1 mile from Jerry's, said he is concerned because there seems to be 800 homes in the Pines, but the number of people that are coming out is a small fraction of that number. He said the parties that are going out on Friday's are not the responsibility of Jerry's and the neighborhood should be held responsible for cleaning up their area. If Jerry's market closed tomorrow, he doesn't see how the community will be changed. He is in favor of the project.

Anwar Virani, 6141 Capriana Common, Fremont, pointed out that he has raised three children and one is of drinking age and felt that when talking about children and school it is about the values the parents teach their kids. He has his own kids visit liquor stores to buy food. He respects people with kids, however it is not the liquor store, it is the parents education and the values they teach. He has owned liquor stores and has dealt with litter for so many years and it has nothing to do with the liquor stores. He drives expressways everyday and he sees litter everywhere. He said people shouldn't blame it on Jerry's but should be educated. He is in favor of the project.

John Jay, 542 South Main Street, lives a mile away from Jerry's, said the issue is not Jerry's market but the people that attend. He thinks Jerry's will be an upscale market and Mr. Ali is trying to improve his business. He asked if there is an issue with drugs in Jerry's. He is in favor of the project.

Richard Matfeld, 122 Woodland Court, lives 200 yards from Jerry's, said he visits Jerry's market about five times a week. He drinks beer, wine and hard liquor and felt that this is a legal product that Jerry wants to sell and he doesn't see any reason why he shouldn't sell it. He is on Main Street, deals with people that are driving by all the time and he is not right next to the grade school. Felt the whole argument is ridiculous and felt that he should get a temporary license. He is in favor of the project.

Matt Husein, 351 Macintosh Terrace, Fremont, frequents Jerry's market, felt that having liquor would benefit the neighbors by adding another service. He felt that Mr. Ali should have a license on a trial basis. He is in favor of the project.

Close the Public Hearing

Motion to close the public hearing.

M/S: Mandal/Azevedo

AYES: 5

NOES: 0

Commissioner Azevedo asked if the police have a recommendation whether Jerry's should be allowed a liquor license and Mr. Williams said that the police does not make a recommendation but the Planning Dept. does.

Commissioner Azevedo asked whether drugs is a problem at Jerry's and Mr. Williams deferred that question to Officer Pangelinan.

Commissioner Azevedo apologized to the audience for having to come out so many times, but stated that the Commission has to be fair and listen to everyone. He also explained that the applicant was the one who requested the continuance.

Vice Chair Galang asked Mr. Williams to explain the incidences from 2001 to the present and if Mr. Ali was notified about the police reports regarding loud noise and graffiti. Mr. Williams deferred the question to the police department.

Office Pangelinan said in terms of contacting Mr. Ali to address the concerns in the Pines, he can't say whether or not someone contacted Mr. Ali or the previous owners directly. For a number of years, the police have addressed the issues that many of the Pines residents have expressed in the form of increased patrol or in the form of community oriented police projects designed to address some of the problems heard tonight.

Commissioner Mandal said that people have a general tendency that when a problem happens, they are afraid to call the police department because they don't want their name to be published and don't want to bring more problems to the neighborhood. He asked if the police department has a facility where people can put their calls in anonymously.

Officer Pangelinan said the police have a few mechanisms by which people can bring information. When calls are received via 911 or general business lines, it is a routine procedure for the dispatchers to ask the caller to identify themselves so in the event if a call is disconnected the dispatcher can re-contact the person or they can be a potential witness to a criminal event but it is not a requirement. So in the event that someone wants to contact the police department via the website, via the crime tip hotline, or the general business line or 911, and they want to remain anonymous, that is something they can do, and the police will not push the issue and will still follow up on the information.

Commissioner Mandal asked if there was any recollection of any drug related issues at Jerry's. Officer Pangelinan said that he can't say specifically that Jerry's market is the source for drug activity, however there have been events that have occurred within close proximity or within the property of Jerry's that are associated with drug activity.

Commissioner Ali-Santosa said he reviewed this police report and noticed that based on the data presented from 2005-2006, he seen comments that the officer initiated the event. He said it seems like criminal activity tend to gravitate towards the location and asked Officer Pangelinan if he agrees.

Officer Pangelinan said the data does tend to suggest that. At any given area of town, there will be an officer who initiates activity such as making car stops or seeing potentially suspicious activity and they are going to take action. Jerry's market is a very busy place and officers are going to see a lot of vehicular and pedestrian traffic that goes right through which does generate attention.

Commissioner Azevedo asked if it is a matter of policy when the police are called to a residence, they park away from the residence and not directly in front. Officer Pangelinan said that it is not a matter of policy but it is a tactic that is employed as a matter of safety to the officer.

Commissioner Mandal asked if Milpitas was divided in different zones, would this area be considered a problem zone? Officer Pangelinan said he couldn't say that this section of town is any more fraught with criminal activity than any other section.

Motion to deny Use Permit Amendment No. UA2006-2 based on the findings in the staff report.

M/S: Azevedo/Ali-Santosa

AYES: 3 (Ali-Santosa, Azevedo and Mandal)

NOES: 2 (Galang and Williams)

X.
ADJOURNMENT

The meeting was adjourned at 9:33 p.m. to the next regular meeting of November 8, 2006.

Respectfully Submitted,

Tom Williams
Planning and Neighborhood Services
Director

Veronica Bejines
Recording Secretary